

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: Confirmation Number: 2881
Christelle PRAGNON et al. Attorney Docket Number: 021305-00214
Serial Number: 10/539,406 Group Art Unit: 1657
Filed: November 23, 2005 Examiner: Paul C. Martin
For: METHOD FOR ANALYZING TUMOR AGGRESSIVITY COMPRISING
MEASUREMENT OF POLYMERIZED ACTIN

RESPONSE TO NOTICE OF NON-RESPONSIVE AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: April 11, 2008

Sir:

In the Notice dated March 14, 2008, the Amendment filed on January 8, 2008 was considered non-responsive for failing to address the rejection of claims 6-13 under 35 U.S.C. § 112, first paragraph, for alleged lack of written description, and the rejection of claims 8-11 under 35 U.S.C. § 112, second paragraph, for alleged indefiniteness.

Applicants believe that this Notice was issued in error. The Amendment Submitted with RCE under 37 C.F.R. § 1.114 that was filed on January 8, 2008 was not the first or only submission in response to the Office Action dated August 8, 2007. Rather, the January 8, 2008 Amendment was *supplemental to* the Amendment After Final Rejection under 37 C.F.R. § 1.116 that was submitted on November 8, 2007.

Applicants' November 8, 2007 Amendment After Final Rejection was entered and considered, and an Advisory Action was issued on December 4, 2007. The Advisory Action indicated that the rejections under 35 U.S.C. § 112, first and second paragraphs,

were being maintained for the reasons of record. The Advisory Action did not allege that Applicants' amendments and remarks regarding these rejections were not responsive, only that they were not persuasive.

Applicants submitted a **further** response on January 8, 2008 along with the filing of an RCE and a Petition for Extension of Time. This Amendment Submitted with RCE was filed in order to respond to the comments found in the last paragraph of the Continuation Sheet (PTO-303) of the Advisory Action.

Applicants' RCE form states:

"If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s)" (Emphasis added.)

Applicants did not request that their prior November 8, 2007 response not be entered. Applicants expected that both responses to the August 8, 2007 Office Action would be entered, as evidenced by the statement found on the first page of the Amendment Submitted with RCE, "**Further to** the Amendment After Final Rejection filed on November 8, 2007, please amend the application as shown on the following pages," and the statement found in the Remarks section, "Applicants refer the Examiner to the remarks contained in the Amendments filed on May 17, 2007 and **November 8, 2007.**" (Emphasis added.)

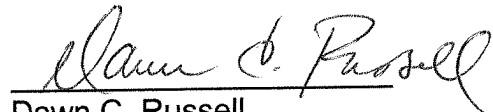
If the Patent Office continues to take the position that the rejections under 35 U.S.C. § 112, first and second paragraphs, have not been overcome by the claim amendments and arguments presented in Applicants' November 8, 2007 and January 8, 2008 submissions, then Applicants submit that the proper course of action is to point

out the alleged deficiencies in Applicants' arguments and repeat the rejections in the next Office Action.

In conclusion, Applicants submit that the November 8, 2007 and January 8, 2008 submissions were fully responsive to the rejections set forth in the August 8, 2007 Office Action. Applicants respectfully request that prosecution be resumed in this application.

No fee is believed due consideration of this paper. However, the Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300, **referencing attorney docket number 021305.00214.**

Respectfully submitted,



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